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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,491	09/15/1999	STANISLAV KHIRMAN	NARSP003	8814

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EXAMINER

NEURAUTER, GEORGE C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/397,491

Applicant(s)

KHIRMAN ET AL.

Examiner

George C. Neurauter, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 29-48 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 November 2005 has been entered.

Response to Arguments

Applicant's arguments filed 18 November 2005 have been fully considered but they are not persuasive.

The Applicant argues that the Examiner has misinterpreted the claim limitations and has not done a proper rejection since the Examiner has failed to consider each limitation of the claim.

The claims recite:

"...the detector device allowing the plurality of request signals to pass uninterrupted between [a] first device and [a] second device regardless of [a] first result or [a] second result in response to an operational failure of the detector

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device, the operational failure comprising a non-functioning operation".

In view of the broadest reasonable interpretation of the claims as required by MPEP 2111 which must be consistent with the interpretation that those skilled in the art would reach, the Examiner submits that the broadest reasonable interpretation of the claims encompass an embodiment wherein the device totally fails and does not function at all since the claims do not specifically recite what constitutes a "non-functioning operation" and one of ordinary skill in the art would interpret this limitation wherein the detector device may completely and totally fail, rendering the device wholly inoperable. Therefore, the Examiner's interpretation wherein the device simply acts as a communication line when it has completely failed is not improper since a communication line does not introduce a point of failure into the network and allows request signals to pass uninterrupted between a first device and a second device as required by the claim and as argued by the Applicant. Further, the Examiner also submits that this broadest reasonable interpretation is valid since a nonfunctioning device that allows signals to pass uninterrupted can be embodied devices that are within the knowledge of one of ordinary skill such as a telephone answering machine or a modem, since both devices are

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known within the art to have an connection to a first device, such as the customer premise network interface or, more broadly, any node within the telephone network connected to the customer premise network interface, and a connection to a second device, such as a telephone. If these devices are not powered in order to operate their respective functions, these devices simply allow any signals to pass uninterrupted through the device and does not "break" the connection between the network interface and the telephone, however, any functions that can occur on these devices cannot and do not operate and, since the claims specifically recite a method and detector device "for use in a detector device", any operation of the detector device when it is totally inoperable cannot occur and is, therefore, is interpreted to be a device that completes the connection between two devices. The Examiner reiterates that the claims should be amended in order for the claimed invention to be patentably distinguishable from the prior art and that the "operational failure" of the detector device that comprises a "non-functioning operation" which the Applicant relies on for patentability should be clearly and distinctly recited along with the proper support for this functionality within the specification without adding new matter. The Applicant is

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requested to specifically show within the specification the support for any amendments made to the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-48 are rejected under 35 U.S.C. 102(b) as being anticipated by "Teach Yourself TCP/IP in 14 days" ("TCP/IP").

Regarding claim 29, "TCP/IP" discloses a method for use in a detector device (referred to in the reference as "gateway"; pages 44 and 45) for controlling access to information on a network including a plurality of interconnected devices, the detector device coupled to the network between a first device ("sending device"; page 70) and a second device ("destination device"; page 70), the method comprising:

monitoring, independent of the first device and the second device, a plurality of request signals for data between the first device and the second device in the network (page 18, specifically "request primitive"), at least one request signal including a user identification parameter ("address"; page 70,

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specifically "Sending address"); determining whether a user identified by the user identification parameter in the at least one request signal is permitted access to data being requested; comparing a predetermined parameter associated with the user with a predetermined parameter associated with the data to determine permission to access the data; and generating a response to the request signal to alter communications between the first device and the second device in response to the comparison providing a first result and not altering communications between the first device and the second device in response to the comparison providing a second result; and the detector device allowing the plurality of request signals to pass uninterrupted between the first device and the second device regardless of the first result or the second result in response to an operational failure of the detector device, the operational failure comprising a non-functioning operation.

(page 45, specifically "Simply put, the gateway's sole task is to receive a Protocol Data Unit (PDU) from either the internetwork or the local network and either route on to the next gateway or pass it into the local network for routing to the proper user.")

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Claims 36, 42, and 43 are also rejected since claims 36, 42, and 43 contain substantially the same limitations as recited in claim 29.

Regarding claim 30, "TCP/IP" discloses a method of controlling access of claim 29, wherein the generated response comprises allowing access to the data when the predetermined parameter associated with the user is greater than or equal to a predetermined parameter associated with the data. (page 45, specifically "Simply put, the gateway's sole task is to receive a Protocol Data Unit (PDU) from either the internetwork or the local network and either route on to the next gateway or pass it into the local network for routing to the proper user.")

Claims 38 and 44 are also rejected under 35 USC 102 (e) since claims 38 and 44 contain the same limitations as recited in claim 30.

Regarding claim 33, "TCP/IP" discloses the method of claim 29, wherein the predetermined parameter associated with the user is one from a group consisting of a positive monetary value, a positive time value, a bandwidth value, a quality of service value, and a content rating. (page 45, specifically "Simply put, the gateway's sole task is to receive a Protocol Data Unit (PDU) from either the internetwork or the local network and either

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route on to the next gateway or pass it into the local network for routing to the proper user.")

Claims 41 and 47 are also rejected since claims 41 and 47 contain the same limitations as recited in claim 33.

Regarding claim 31, "TCP/IP" discloses a method of controlling access of claim 29, wherein the provided response comprises allowing access to the data when the predetermined parameter associated with the user is less than or equal to a predetermined parameter associated with the data.

(page 45, specifically "Simply put, the gateway's sole task is to receive a Protocol Data Unit (PDU) from either the internetwork or the local network and either route on to the next gateway or pass it into the local network for routing to the proper user.")

Claims 35 and 45 are also rejected since claims 35 and 45 contain the same limitations as recited in claim 31.

Claim 37 is also rejected since claim 37 contains the same limitations as recited in claim 31.

Claim 40 is also rejected since claim 40 contains the same limitations as recited in claim 35.

Regarding claim 32, "TCP/IP" discloses the method of claim 29, wherein the provided response comprises re-directing the data signal to a third device in response to the predetermined

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parameter associated with the user being less than the predetermined value associated with the data, the third device allowing for a resetting of the predetermined parameter associated with the user to a new parameter comprising a value greater than or equal to the predetermined parameter associated with the data. (page 45, specifically "Simply put, the gateway's sole task is to receive a Protocol Data Unit (PDU) from either the internetwork or the local network and either route on to the next gateway or pass it into the local network for routing to the proper user.")

Claims 39 and 46 are also rejected since claims 39 and 46 contain the same limitations as recited in claim 32.

Claim 48 is also rejected since claim 48 contains the same limitations as recited in claim 34.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

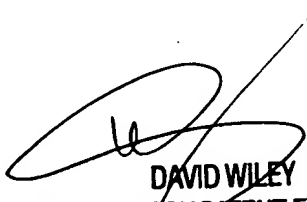
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn


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